



PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference RL.P53005WO		FOR FURTHER ACTION		See Form PCT/PEAA16
International application No. PCT/EP2004/050228		International filing date (day/month/year) 27.02.2004		Priority date (day/month/year) 27.02.2004
International Patent Classification (IPC) or national classification and IPC INV. H04L1/00				
Applicant TELEFONAKTIEBOLAGET L M ERICSSON (Publ) et al.				
<p>1. This report is the International preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in Item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (Indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>				
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the International application</p>				
Date of submission of the demand 22.12.2005		Date of completion of this report 08.06.2006		
Name and mailing address of the International preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016		Authorized officer Borges, P Telephone No. +31 70 340-4394 		

**INTERNATIONAL PRELIMINARY REPORT
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International application No.
PCT/EP2004/050228

Box No. I Basis of the report

1. With regard to the language, this report is based on

- ☒ the international application in the language in which it was filed
- ☐ a translation of the international application into , which is the language of a translation furnished for the purposes of:
 - ☐ international search (under Rules 12.3(a) and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4(a))
 - ☐ international preliminary examination (under Rules 55.2(a) and/or 55.3(a))

2. With regard to the elements* of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

Description, Pages

1-19 as originally filed

Claims, Numbers

1-13 as originally filed

Drawings, Sheets

1/2-2/2 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	2
	No: Claims	1,3-13
Inventive step (IS)	Yes: Claims	
	No: Claims	1-13
Industrial applicability (IA)	Yes: Claims	1-13
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

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Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

1 The following documents are referred to in this communication:

D1 : WO 02/45275 A (SAGIV AVI ; SHAHAM ODED (IL); SHAPIRA YAIR (IL);
ZAKAI NO'AM (IL); FLAS) 6 June 2002 (2002-06-06)
D2 : EP 0 969 623 A (MICROSOFT CORP) 5 January 2000 (2000-01-05)

2. Preamble

Expression "a Real-Time Protocol" might be unclear (Art 6 PCT). In the field of telecommunications there are many protocols used for real time applications. The claim is not clear whether it refers to a particular Internet protocol known as RTP, or to any real-time protocol. The broader interpretation will be used.

Expression "Media Resource Function" is unclear as it has no well defined meaning in the field. It will be interpreted as any network function related to any resources.

3 Independent claim 1

3.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

Document D1 discloses (the references in parenthesis applying to this document):
A method of optimising the bandwidth usage on a protocol managed link transporting media between User Equipment (Fig 1, 170) and a Media Resource Function of a cellular telecommunications network (Fig. 1, 110, 410; page 7, line 9), the method comprising:

- sampling, at one of the User Equipment and the Media Resource Function, the rate of packet loss on the link (page 15, lines 27-29); and
- adapting the sending rate over the link in dependence upon the sampled values (page 3, lines 27-29).

3.2 The fact that D1 does not explicitly state "a Real-time protocol" or a "media resource function" does not render the claim novel as the meaning of these expressions is not clear (see section 2).

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- 3.3 Data rate adaptation is well known in the field of digital data transmission. Its advantages are well known. The use of data rate adaptation as claimed in claim 1 is therefore obvious as long as the system supports several rates (Art. 33(3) PCT).
- 4 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 does not involve an inventive step in the sense of Article 33(3) PCT in the presence of document D2, as the simple application of the teachings of D2 to a wireless environment does not involve an inventive step.
5. Independent claims 12 and 13
Claims 12 and 13 are apparatus claims with means corresponding to the respective steps of claim 1. The reasoning applied to claim 1, in paragraphs 2.1 and 2.2 above, applies mutatis mutandis to claims 12 and 13.
- 6 Dependent claims 2-11
Dependent claims 2-11 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT).

P. Borges